

COHN LIFLAND PEARLMAN  
HERRMANN & KNOPF LLP

Peter S. Pearlman  
Park 80 Plaza West-One  
Saddle Brook, NJ 07663  
Telephone: (201) 845-9600  
Fax: (201) 845-9423

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**"DOCUMENT TO BE FILED ELECTRONICALLY"**

In re: HYPODERMIC PRODUCTS	:	Master Docket No.
DIRECT PURCHASER ANTITRUST	:	05-1602 (JLL/CCC)
LITIGATION	:	
	:	MDL No. 1730
THIS DOCUMENT RELATES TO:	:	
The Consolidated Direct Purchaser Class	:	
Actions: Louisiana Wholesale Drug	:	
Company, Inc. (05-1602), Rochester Drug	:	
Co-Operative, Inc. (05-1602), JM Smith	:	
Corporation (05-1602), Dik Drug	:	
Company (05-4465), SAJ Distributors, Inc.	:	
(05-5891), American Sales Co. Inc.	:	
(06-1204), and Park Surgical Co., Inc.	:	
(06-1205)	:	
	:	

**DIRECT PURCHASER PLAINTIFFS' MOTION FOR CERTIFICATION  
OF THE PROPOSED DIRECT PURCHASER CLASS, PRELIMINARY  
APPROVAL OF PROPOSED SETTLEMENT, APPROVAL OF THE FORM  
AND MANNER OF NOTICE TO THE CLASS, AND SETTING OF FINAL  
SETTLEMENT SCHEDULE AND HEARING**

The consolidated Direct Purchaser Plaintiffs<sup>1</sup> hereby move that the Court enter

---

<sup>1</sup>Louisiana Wholesale Drug Company, Inc. (05-1602), Rochester Drug Co-  
(continued...)

the Preliminary Approval Order proposed herewith,<sup>2</sup> which (a) certifies the proposed Direct Purchaser Class and appoints the class representatives and class counsel; (b) preliminarily approves a proposed \$45 million settlement (the “Settlement”) between the Direct Purchaser Class and defendant Becton, Dickinson and Company (“BD”); (c) makes certain findings concerning direct purchaser standing to seek damages under the Clayton Act<sup>3</sup>; (d) directs that notice of the Settlement be given to the Direct Purchaser Class; and (e) sets further scheduling, including deadlines for objections to the proposed settlement, for opting out of the Direct Purchaser Class, and for a fairness hearing.

In support hereof, the Direct Purchaser Plaintiffs rely upon the accompanying Memorandum of Law and the Declaration of Peter S. Pearlman, Esq. in Support of Direct Purchaser Plaintiffs’ Preliminary Approval Motion, to which the Settlement and other pertinent documentation is appended.

---

<sup>1</sup>(...continued)  
Operative, Inc. (05-1602), JM Smith Corporation (05-1602), Dik Drug Company (05-4465), SAJ Distributors, Inc. (05-5891), American Sales Co., Inc. (06-1204), and Park Surgical Co., Inc. (06-1205). *See* CMO 5 (Doc. #33) and CMO 7 (Doc. #75).

<sup>2</sup>A proposed Preliminary Approval Order is attached as Exhibit C to the Declaration of Peter S. Pearlman, Esq. in Support of Direct Purchaser Plaintiffs’ Preliminary Approval Motion.

<sup>3</sup>Filed concurrently herewith is the “Motion of the Direct Purchaser Plaintiffs That the Court Make Particular Findings Relating to Direct Purchaser Standing, Or, Alternatively, for Partial Summary Judgment,” which pertains to the issue of Clayton Act standing.

Respectfully submitted,

Dated: December 22, 2009

s/Peter Pearlman

Peter S. Pearlman  
COHN LIFLAND PEARLMAN  
HERRMANN & KNOPF LLP  
Park 80 Plaza West- One  
Saddle Brook, NJ 07663  
(201) 845-9600  
[psp@njlawfirm.com](mailto:psp@njlawfirm.com)

Bruce E. Gerstein  
Noah Silverman  
Joseph Opper  
Elena K. Chan  
GARWIN GERSTEIN & FISHER, LLP  
1501 Broadway, Suite 1416  
New York, NY 10036  
(212) 398-0055

John Gregory Odom  
Stuart Des Roches  
Andrew Kelly  
ODOM & DES ROCHE, L.L.P.  
Suite 2020, Poydras Center  
650 Poydras St.  
New Orleans, LA 70130  
(504) 522-0077

Kendall S. Zylstra  
Stephen Connolly  
SCHIFFRIN & BARROWAY, LLP  
280 King of Prussia Road  
Radnor, PA 19087  
(610) 667-7706

Daniel Berger  
Eric Cramer  
Peter Kohn  
BERGER & MONTAGUE, P.C.  
1622 Locust Street  
Philadelphia, PA 19103  
(215) 875-3000

David P. Smith  
PERCY SMITH & FOOTE, L.L.P.  
720 Murray Street  
P.O. Box 1632  
Alexandria, LA 71309  
(318) 445-4480

Adam Moskowitz  
Tucker Ronzetti  
KOZYAK TROPIN & THROCKMORTON, P.A.  
280 Wachovia Financial Center  
200 South Biscayne Blvd.  
Miami, FL 33131  
(305) 372-1800

Linda P. Nussbaum  
COHEN, MILSTEIN, HAUSFELD &  
TOLL, P.L.L.C.  
150 East 52nd Street - 30th Floor  
New York, NY 10019  
(212) 836-7797

Alfred G. Yates  
Gerald Rutledge  
LAW OFFICES OF ALFRED G. YATES,  
JR., PC  
429 Forbes Avenue  
Pittsburgh, PA 15219  
(412) 391-5164

Steve D. Shadowen  
HANGLEY ARONCHICK SEGAL &  
PUDLIN  
30 North Third Street, Suite 700  
Harrisburgh, PA 17101-1701  
Tel: (717) 364-1030  
Fax: (717) 364-1020

Thomas M. Sobol  
HAGENS BERMAN SOBOL SHAPIRO,  
LLP  
One Main Street, 4th Fl.  
Cambridge, MA 02142  
Tel: (617) 482-3700

Elizabeth A. Fegan  
HAGENS BERMAN SOBOL SHAPIRO,  
LLP  
60 West Randolph Street, Suite 200  
Chicago, IL 60601  
Tel: (312) 762-9237

Joshua P. Davis  
LAW OFFICES OF JOSHUA P. DAVIS  
437 Valley Street  
San Francisco, CA 94131  
(415) 422-6223

Mitchell W. Berger, Esq.  
BERGER SINGERMAN, P.A.  
350 Las Olas, Suite 1000  
Fort Lauderdale, FL 33301  
Tel: (954) 525-9900  
Fax: (954) 523-2872

David Patron  
PHELPS DUNBAR, LLP  
Canal Place  
365 Canal Street, Suite 2000  
New Orleans, LA 70130-6534  
Tel: (504) 566-1311

Steve W. Berman  
HAGENS BERMAN SOBOL SHAPIRO, LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
Tel: (206) 623-7292

Jeffrey Kodroff  
John A. Macoretta  
SPECTOR, ROSEMAN & KODROFF  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Tel: (215) 496-0300

David Boies, III  
STRAUS & BOIES, LLP  
4041 University Avenue  
Fairfax, VA 22030  
Tel: (703) 764-8700  
Fax: (703) 764-8704

Kenneth G. Walsh  
STRAUS & BOIES, LLP  
2 Depot Plaza  
Bedford Hills, NY 10507  
Tel: (914) 244-3200  
Fax: (914) 244-3260

Howard J. Sedran  
LEVIN, FISHBEIN, SEDRAN & BERMAN  
510 Walnut Street  
Philadelphia, PA 19106  
Tel: (215) 592-1500  
Fax: (215) 592-4663

Dianne M. Nast  
Erin C. Burns  
Steven L. O'Donnell  
RODANAST, P.C.  
801 Estelle Drive  
Lancaster, PA 17601  
Tel: (717) 892-3000  
Fax: (717) 892-1200

Michael L. Roberts  
ROBERTS LAW FIRM, P.A.  
P.O. Box 241790  
20 Rahling Circle  
Little Rock, AR 72223-1790  
Tel: (501) 821-5575  
Fax: (501)821-4474

Daniel E. Gustafson  
GUSTAFSON GLUECK, PLLC  
650 Northstar East  
608 Second Avenue South  
Minneapolis, MN 55402  
Tel: (612) 333-8844  
Fax: (612) 339-6622